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LATE SOVIET CONSTITUTIONAL LAW AND NON-RUSSIAN UNION REPUBLICS: UNEQUAL AMONG EQUALS?

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KIRYL KASCIAN

FOREWORD

The Soviet Union was a multi-ethnic state which accommodated numerous nationalities within one political formation. Moreover, the administrative division of the country, made according to the principle of ethnicity, was multi-level which *per se* provided various ethnic groups with different opportunities to pursue their own interests aimed at the cultivation and promotion of their own identity and culture. The form of Soviet national policies towards the republics of the USSR was characterized by the formula "national in form, but socialist in content."[1] Post-war developments of the official national policies in the USSR were characterized by the further rapprochement and merger of Soviet peoples and by the creation of a single Soviet culture.[2] The ethnic composition and territorial division of the USSR predetermined a special role for Russian culture and language as tools for achieving these goals while, at the same time, the maintenance of the official historical canon and available options for each nation within this framework were centralized from Moscow.[3] Thus, because of their different historical experiences and narratives, sometimes clashing with myths and memories of other neighboring nations, the union republics did not have equal opportunities to cultivate their national identities.

OBJECTIVE DETERMINANTS

Prior to the description of constitutional elements, it is necessary to refer to the objective determinants of equality among Union's republics, other than Russia. One of these determinants was history. First, on the one hand, nearly all Soviet territories experienced the process of unification under Russian rule within the Russian Empire. Second, the experiences of their annexations or accessions were different and thus were differently interpreted in the national myths and narratives which were significant driving forces of national movements among the non-Russian nations of the former Russian Empire and soon to-be Soviet Union. Third, the policies of Russian authorities on these lands differed. Fourth, this conglomerate of nations at Russia's borderlands had their own different experiences of statehood in their histories. Fifth, these nations also had different experiences in the establishment of their own national statehood on the remnants of the Russian Empire, and thus their inclusion into the Soviet state varied in circumstance and time. All these determinants significantly affected the official historical canon and thus the scope of opportunities available for the titular nations of the Union republics. For instance, soon after the war, the concept of the so-called "Old Russian people" (*drevnerusskaya narodnost*) was promoted as the official Soviet historical canon, claiming an alleged common ancestry of Russians, Ukrainians and Belarusians.[4] This approach therefore subordinated official Belarusian and Ukrainian history to a Russian-centric view, filled with

platitudes about the centuries-long struggle of the Belarusians and Ukrainians for "re-unification" with the fraternal Russian people.[5] At the same time, the windows of opportunity among the nations was not equal. This inequality is evident in the example of these three nations. Hence, Ukrainians and Russians "had their folk heroes, generals and Cossacks, [while] the Belarusians had partisans and living examples to revere such as their athletes and cosmonauts."[6]

The second determinant was the actual national and demographic policies pursued in the republics and those transposed onto the republics. It was determined by the inter-Soviet migration which was orchestrated by "the ministries, large Soviet industry and defense forces" and ideologically backed as "a mutually advantageous exchange of labour which was boundless, free of conflict and productive."[7] An illustration of it can be the case of Lithuania, where the Soviet authorities "favored local migration to the capital rather than the massive pan-Soviet influx experienced by Tallinn, Riga, and Minsk."[8]

The third determinant was the presence of the Union republics in the international arena. Though all union republics were proclaimed as sovereign states, only Belarus and Ukraine were founding members of the UN. However, their distinct presence in the United Nations, and hence in international politics, was "purely formal", as "they always follow[ed] the decisions of the Soviet Union's ambassador."[9]

NATIONAL POLICIES À LA SOVIET UNION

Generally, the Central and Eastern European perception of ethnicity sees language as one of the central boundary markers of a nation. Consequently, "[t]here is a widespread assumption that a nation, in order that it can call itself a nation, should have its own language."[10] According to the Soviet concept of nation, language was one of its major determinants of nation, which according to a famous definition by Joseph Stalin, was identified as "a historically formed stable community of language, territory, economics and of a psychical individuality resulting from cultural values."[11] Moreover, this definition was absorbed by dictionaries of the major Soviet languages.

The Soviet constitutional system "employ[ed] "social engineering through law" and thus developed new meanings within quite standard terminology.[12] With this regard, the 1977 Soviet Constitution was not a timeless legal document, but merely a reflection of the experiences of the Soviet state-building which complied with the situation in the Soviet society of that times. [13] The first peculiarity of this document was that for the first time in the Soviet constitutionalism it marked a visible shift from class society towards an "all-people State", and contrary to all previous constitutions, it provided that "all power in the USSR belongs to the people."[14] The second distinctiveness of the Constitution was an introduction of the notion "the Soviet People – the new entity of mankind". On the one hand it reflected the endeavors of the Soviet authorities aimed at "drawing together" (*sblizhenie*) of the Soviet nationalities "through the play of "objective" social forces".[15] On the other hand, this process was compatible with the multinational nature of the state, as "the social and political unity of the Soviet people does not renounce the national differences."[16] The adoption of the new constitutions of the Union republics in 1978 was made according to the model and in compliance with the 1977 USSR Constitution.[17] Nevertheless, it provided the union republics with at least two channels to assess and demonstrate identities of their titular nations.

The first channel was the Soviet Constitution of 1977 and the Constitutions of the Union

republics adopted in 1978.[18] The latter documents in addition to the provisions incorporated from the Soviet Constitution, contained elements which referred to the status of titular nations and the distinctive markers of their identity, such as language. Another important peculiarity of the republican constitutions was the evaluation of the previous statehood experiences of the titular nations of the non-Russian Soviet republics, as well as an emphasis on a particular role for Russians in establishing the Soviet power on their territories.

The second channel was the contents of official symbols of the union republics, particularly their anthems. Though being pieces of poetry, the latter were approved by the central authorities and thus provided the titular nations of the republics with a possibility to demonstrate their identities through possible reference to national myths, historical memories, or some key elements of their homeland.

NATIONS AND STATEHOODS IN THE CONSTITUTIONS

Since languages is one of the determining factors of a nation within a Soviet perception of the nation construct, it is necessary to refer to their status in the constitutions. In most cases, the reference to the national languages is made only with regard to the publication of official documents and court hearings. The reference to the official status of the language of the titular nationality can be observed only in the cases of three republics of the Caucasus – Armenia, Azerbaijan and Georgia. In all three republics a respective titular language was proclaimed as "the state language" whereas free use of Russian and other language in public institutions was ensured.

Another important element is the evaluation of the previous statehoods of the titular nations of the Union republics. As mentioned above, all of them experienced becoming united under Russian rule within the Russian Empire, though the nature of the inclusion of each respective territory to the Empire and character of the imperial policies differed significantly.

There are a number of aspects which should be stressed with regard to the evaluation of the previous statehoods of the titular nations of the Union republics. First, according to all constitutions, the 1917 October revolution was proclaimed as the core event that changed the history of all of the nations in question. Second, in nearly all cases this event was eloquently presented as Russo-centric, i.e. it was the Russian proletariat which overthrew Tsarist rule and assisted the nations in their nation-building. Third, though the Constitutions were proclaimed to preserve the continuity of previous constitutions, both the contextual evaluation and quality of the references to the previous nation-building could significantly differ from those in the previous Constitutions.

The constitutions can be considered according to a number of categories:

1. Constitutions of the Baltic republics which indirectly mentioned the interwar independent statehood of Estonia, Latvia and Lithuania. This statehood was interpreted as that imposed through the pressure of international imperialism and the nationalist bourgeoisie. At the same time, the events of 1940 are viewed as a restoration of the Soviet power in each republic. There are also some qualitative differences. While in the case of Latvia and Estonia the word "Russian" with regard to the October revolution is mentioned, the Lithuanian version refers only to the "Victory of the Great October". Moreover, in the Estonian case there is no reference to the assistance of the Russian proletariat whilst in the Latvian case, active participation of Latvians in the joint combat for the victory of October revolution and establishment of the Soviet power is mentioned.

2. Constitutions of Azerbaijan, Belarus, Turkmenistan, Ukraine and Uzbekistan consider the respective Soviet republics as the first manifestation of historical statehood of these nations. There are only some differences in this regard. The Ukrainian constitution names the Soviet state as that in which the Ukrainian nation (*narod*) was united. Moreover, there is mention of the defeat of the bourgeois-nationalist counterrevolution, whereas the Belarusian constitution has no references to it. Thus, in the case of Ukraine, their document implies attempts to establish an independent statehood on other than Soviet grounds. In cases of Azerbaijan and Belarus, lack of similar references contrasts with the previous 1937 Constitutions of these republics where "the defeat of the nationalist counterrevolution" was emphasized. Moreover, in the Azeri case, the Soviet nature of this state is emphasized. An Uzbek peculiarity is that Soviet nation-building in Uzbekistan was marked by the direct transition of the Uzbek nation from feudalism to socialism, bypassing the capitalist period. In its turn, the Turkmen Constitution declares that in addition to the statehood, the Turkmen nation has liquidated its centuries-long backwardness.

3. Constitutions of Georgia and Moldova indirectly refer to the alternative statehood projects on the territories in question after the 1917 October revolution. In the case of Moldova, it is stated that the gains of revolution were kept with the help of Russian and other nations of the USSR. This means that Soviet power in Moldova was in competition with another, though unnamed, statehood project and sustained only with assistance from Moscow. Moreover, the Moldovan Constitution emphasizes the foundation of socialist statehood by Moldovans, though without any evaluation of this statehood in the historical perspective. In case of Georgia, a specific date, 25th February 1921, is listed as the date when Soviet power won in Georgia. Like in the Moldovan case, it is emphasized that it became possible with the "brotherly help of Soviet Russia". Thus, the date mentioned in the Constitution implied the collapse of the Democratic Republic of Georgia (DRG), though not directly mentioning this alternative statehood project. Furthermore, the reference to the "help of Soviet Russia" indirectly refers to the military nature of the events which resulted to the collapse of the DRG and Sovietization of Georgia. However, the 1978 Georgian constitution emphasizes voluntary unification of Georgia with other Soviet republics.

4. Constitutions of Armenia, Kazakhstan, Kyrgyzstan and Tajikistan which contain no references to the previous statehoods.

Thus, none of the constitutions contain references to any pre-Soviet independent historical statehood of the titular nations of the Soviet republics. In some cases, alternative projects of nation-building are mentioned indirectly whereas in most cases they are not mentioned at all, though in some cases such references were present in the 1937 constitutions of the republics in question.

SOVIET ANTHEMS, FLAGS AND COATS-OF-ARMS

The anthems of the Soviet republics are a separate subject of evaluation, as in each case they contain a piece of poetry which *per se* can be interpreted in various ways. At the same time, one can see them all as state symbols. Moreover, the constitutions of each Soviet republic contained an article according to which the anthem of each Soviet republic was a subject of approval by the Presidium of the Supreme Council of a respective Soviet republic. In other words, on the one hand, these pieces of poetry were therefore manifestations of each republic's distinctiveness and, on the other hand, they complied with the general line of Soviet policies.

In these texts it is necessary to address two aspects:

1. reference to the relationship between the titular nation of a republic in question with other nations of the USSR, and
2. references to the geographic objects and other elements of mythology or folklore which are referenced.

Indeed, the only other nation, except for the titular nation of a Soviet republic in question are Russians. In other words, most of the anthems in various ways refer either to Russia or to the Russian people as

1. "brave Russian people" (Azerbaijan),
2. "friend and brother" (Ukraine) or just "brotherly [Russia]" (Belarus),
3. "great Russian people" (Kazakstan, Kyrgyzstan, Latvia, Lithuania, Uzbekistan) or "great Rus sia" (Moldova),
4. a core or the main pillar of unity in the USSR (Tadjikistan and Turkmenistan).

In case of three other republics, there were no special references to Russia or the Russian people. Hence, Armenian and Georgian anthems emphasized the friendship among "brotherly" Soviet nations, while the Estonian anthem glorified "brotherly Union".

As it was mentioned above, it is quite difficult to evaluate the exact interpretations of these formulations, as any poetry may be a subject of different interpretations which also may include linguistic peculiarities of a given language. However, these observations show one trend – the central and leading role of Russia and the Russian nation in establishing the development of the Soviet Union, as well as their core role in this formation. In other words, despite this brotherly rhetoric it was therefore practically acknowledged that Russia *de facto* was *primus inter pares*.

Another characteristic element of the anthems is their reference to the "specific homeland", as "a repository of historic memories and associations, the place where 'our' sages, saints, and heroes lived, worked, prayed and fought."[19] This is embodied into mentioning of specific geographic subjects, or elements of mythology. The latter is a typical case of Estonia, where the Estonian nation is portrayed as "Kalev's brave people" which refer to *Kalevipoeg*, the Estonian national epic poem based on national myths and legends. In three other cases – Kyrgyzstan, Latvia and Lithuania – one can trace the reference to the geographic objects. In Kyrgyz case one can trace a linkage between geography and national folklore, as the anthem contains reference to the Ala-Too range, located in the North Tien-Shan, which geographically marks their historical homeland and is also mentioned in the national epic poem called *Manas*. Latvian anthem mentions Riga, the nation's capital. However, the most interesting case is the anthem of Lithuania – which includes three geographic objects of the republic which has Vilnius, the Nioman (Lithuanian: *Nemunas*) and the Baltic Sea. While the Nioman is the longest river that crosses the Lithuanian territory, the reference to the republic's capital Vilnius and to the Baltic Sea seems to echo the nation's history of the 20th century and the peculiarities of Lithuania's territorial formation.[20]

Thus, the anthems could be viewed as the main sources for the demonstration of national distinctiveness. However, the same logic can also be applied towards flags and coats of arms, though such an opportunity for demonstration of national distinctiveness with regard to na-

tional symbols proves to be much more limited.

Among all flags of the Union republics, only the Belarusian one can qualify to this category, as it contains Belarusian national ornaments in it. There are also two coats of arms – Armenian and Georgian ones which fit into this framework. Similarly the Belarusian flag, the Georgian coat of arms contained Georgian ornaments. There is a reference to the "ornamental circle" in case of the Kyrgyz coat-of-arms, however it is not specified whether this ornament is attributed to the Kyrgyz nation. As for the Armenian coat-of-arms, it contains symbols of the Greater and Lesser Ararat, two mountains which are located on the territory of today's Turkey and constitute one of main pillars of the Armenian identity.[21] Thus, the uniqueness of the Soviet Armenian coat-of-arms among other Soviet symbols is that it refers to the nation's historical homeland that stretches beyond the actual borders of the Soviet republic.

CONCLUSION

The declared equality of the Soviet republics was in fact undermined by three objective factors: history and its interpretation, national policies, and international factors. Soviet constitutionalism was an example of social engineering through law as it introduced the notion of "the Soviet people" as a reflection of the "drawing together" policies which in turn did not deny national differences and the multinational nature of the state. The 1978 Constitutions of the Union republics provided therefore channels to at least formally demonstrate identities of the titular nations of the republics. The first channel was represented through the reference to the language issues and more importantly to the evaluation of the previous statehood experiences of the titular nations of the non-Russian Soviet republics. Official symbols of the union republics, particularly their anthems, represented the second channel to demonstrate this distinctiveness. These opportunities were used differently and often were somewhat formal markers, especially considering the nature of the Soviet system. Nevertheless, they provided the Union republics with a window of opportunities and the exploitation combined with actual national policies pursued in the republics and towards the republics demonstrated actual inequality among the republics equal on paper.

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ANNEXES:



Flag of the Belarusian Soviet Socialist Republic



Coat of arms of the Georgian Soviet Socialist Republic



Coat of arms of the Armenian Soviet Socialist Republic

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